

# Planning Board – Town of Spencer

## *Minutes*



Regular Planning Board Meeting  
Tuesday, March 15, 2011 at 7:00 PM  
McCourt Social Hall  
Memorial Town Hall

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The meeting was called to order at 7:05 p.m.

Planning Board Members Present: Shirley Shiver, Paul Sauvageau, and Robert Ceppi.

Planning Board Member Absent: Chairman Fabio Carrera.

Staff present: Michelle Buck, Town Planner, and Bea Meechan, Senior Clerk, ODIS.

### **New Business:**

**A. Applicant for Planning Board vacancy.** Ms. Buck said Mr. Adam Gaudette, Town Administrator, had suggested a meeting between the Board and Ms. Mary Stolarczyk, the applicant. Ms. Buck met with Ms. Stolarczyk the previous week. Ms. Stolarczyk is here tonight to meet with the Board members and answer any questions the members have. Ms. Buck introduced Ms. Stolarczyk to the Board at this time.

Ms. Stolarczyk said she has been a real estate agent for ReMax Vision Realty (Based in Worcester). She is also involved in the Sugden Reservoir Association. Ms. Stolarczyk is interested to participate and be more involved with what is going on with the Town and Town Government, and could provide her expertise.

The Board commented that Ms. Stolarczyk's expertise on real estate will be asset valuable to the Planning Board.

Ms. Stolarczyk asked the Board about the meeting schedules, and also the current and any future up-coming projects in Town.

The Planning Board meeting schedules have changed from meeting twice a month to once a month on the third Tuesday of each month. However, the Board could schedule a special meeting when it is necessary. When the economy has improved and more development occurs in Town the meeting schedules will resume more often. Currently the Board and Ms. Buck have just finished the draft on the proposed zoning amendments (Use of Residence for Business Purposes – large and small home based contractor) which will be presented at the Annual Town Meeting (5/5/11) along with the Floodplain Amendment. Next is to work on the Inclusionary

Plan and Housing Production Plan which tentatively to be completed and presented at the Fall Town Meeting.

Mr. Ceppi made a motion to recommend Ms. Stolarczyk's appointment to serve as Planning Board member. Mr. Sauvageau seconded the motion and the vote was 3-0 in favor. Ms. Buck will send a memo to the Town Administrator of the recommendation.

Mr. Ceppi announced that he is not able to attend April's Planning Board meeting.

**B. Public Hearing on Zoning Amendments.** Ms. Shiver opened the hearing at 7:23 p.m. and read the notice of public hearing thereafter. The Spencer Planning Board will hold a public hearing on Tuesday, March 15, 2011 in McCourt Social Hall of Memorial Town Hall on the following items starting at 7:00 p.m. Proposed Amendments to Spencer's Zoning Bylaw:

- (1) Sections 2.2 (Definitions) and 4.8.3 (Use of Residence for Business Purposes); Amend the definition, allowed districts, and permitting requirements for home based contractors and define construction vehicles.
- (2) Section 3.4.2, Floodplain District; amend per requirements of the National Flood Insurance Program.

Note: There were two individuals presented for this public hearing.

Ms. Buck explained the Board of Selectmen (BoS) requested the Planning Board consider amending the Zoning Bylaw to eliminate the lot size requirement for home based contractors, and also consider allowing a removal of the prohibition on their being located in the LR and VR districts as a general rule.

The Board and Ms. Buck have been working on the proposed amendments for the past few months. The amendment divides home based contractors into two categories (large and small), with two options for regulation (special permit or by-right). Small home based contractors would be allowed in the following additional districts: LR, VR and TC.

Ms. Buck has prepared a summary of the proposed amendments. The handout summary was distributed to the Board and the public at this time. Requirements for large home based contractors will be the same as the existing requirements for home based contractors. Small home-based contractors will have less restrictive requirements, as indicate in the table below:

	<b>Large Home Based Contractors</b>	<b>Small Home Based Contractors</b>
Minimum lot size	2 acres	No specific lot size for this use; requirements of underlying zoning district apply
Permitting Requirements	Special Permit from Zoning Board of Appeals	ODIS/Building Inspector approval

	<b>Large Home Based Contractors</b>	<b>Small Home Based Contractors</b>
Applicable Zoning Districts	Rural Residential (RR) Suburban Residential (SR)	Rural Residential (RR) Village Residential (VR) Lake Residential (LR) Town Center (TC)
General Standards	<ul style="list-style-type: none"> <li>- 2 vehicle limit</li> <li>- Outdoor activities must be screened</li> <li>- Limited to 25% of lot</li> <li>- 2,000 s.f. limit on accessory structures</li> </ul>	<ul style="list-style-type: none"> <li>- 2 vehicle limit (no construction vehicles)</li> <li>- No outdoor activity</li> <li>- 2,000 s.f. limit on accessory structures</li> </ul>

Mr. Ceppi commented that the 2,000 s.f. limit on accessory structure might not be enough for the large home based contractors. Excavator and bulldozer vehicles would acquire more storage space, and there shall be the setback/buffer requirements from the lot's line to the abutting properties.

Ms. Buck replied there are no changes proposed to the general standards for the large home based contractors, it has already existed in the current by law as is. Ms. Buck said that the minimum lot size for large home based is limited to 2 acres, with 2,000 s.f. permitted for accessory structures. There is another category in the bylaw that deals with the outdoor storage/accessory structure and the distance requirement from the lot's line. Ms. Buck made a reference to Section 4.3.25 Construction Trades, and G-5 under the Use Table, as follows:

**Section 4.3.25 (G-5):**

A. Construction Trades are permitted in the Rural Residential (RR) district provided the parcel is a minimum of five acres in size, the building or outside area used for storage of equipment or materials is a minimum of 100 feet from any lot line and 300 feet from any existing dwelling, and the area between any abutting property and the storage area is vegetated with either dense natural vegetation or landscaped to provide a dense buffer. A site plan in compliance with Section 7.4 shall be submitted to the Zoning Board of Appeals along with the special permit application.

B. Construction Trades are permitted in the Commercial (C) district provided the Buffering standards set forth in this zoning bylaw application.

Basically, if the large home based contractor needs more of storage space/accessory structure (more than 2,000 s.f. limit), it then falls into Construction Trades category which requires a 5 acre minimum lot size, and must follow the above regulations (Section 4.3.25 and G-5) of the zoning bylaw.

The Board members discussed on the number of vehicles permitted, which is 2 vehicles, for the large home based contractors. The consent was to allow for 4 vehicles; with 2 maximum of

construction vehicles. However, this could become a nuisances issue to the abutting neighbors in the SR district. The Board suggested increasing number of vehicles in the RR from 2 to 4; and keep the limit of 2 vehicles in the SR district. Another concern was the construction vehicles idling at the site (a noise nuisance to the neighbors).

The minimum lot requirement in the RR district is 60,000 sq. ft.; in SR is 22,500 sq. ft. For Small home based contractors, the bylaw doesn't permitting any construction vehicle being (park, store, and idling) at the site. Ms. Buck pointed out that the large home based contractors must meet the requirement of the 2 acre lot size. Parking of vehicles over one ton in capacity is permitted subject to the provision in Section 4.8.4 and requires a special permit in the RR, SR, LR, VR, and TC districts. (The ZBA holds a public hearing, and the abutting neighbors can voice their concerns). In the C and I districts, parking of said vehicles is permitted by right. With that being said, all concerns the Board have are resolved. The Board concurred.

Ms. Buck and the Board agreed to make a modification on Section 4.8.3.B (c) 3, page 3, change from: Not more than two vehicles associated with the business shall be parked at the site at any given time, including employee vehicles...of the business to: Not more than *four vehicles* associated with the business (*maximum of two construction vehicles*) shall be parked at the site any given time, including employee vehicles...of the business.

At this time Ms. Shiver opened the hearing to the public for any questions and comments.

Mr. Neil Rivers of 6 Overlook Drive asked for a clarification in term of "construction vehicles."

Mr. Sauvageau said the definition for construction vehicle was added to the Section 2.2 – Definitions as part of the Zoning Amendments. Construction vehicles are identified as heavy-duty vehicles designed for executing construction frequently vehicles involving earthwork operations. They are also known as heavy-duty equipment, construction equipment, earth movers, and engineering vehicles and include but are not limited to backhoes, bulldozers, front loaders, excavators, graders, cranes, dump trucks, and similar vehicles.

The Board members asked whether the BoS has made any comments to the proposed zoning amendments.

Ms. Buck said she notified the Town Administrator (TA) and the BoS of the public hearing date and the content of the zoning amendments. She hasn't received any comments.

With no further questions and comments from the Board and the public, Ms. Shiver made a motion to close the hearing at 7:50 p.m. Mr. Ceppi seconded the motion and the vote was 3-0 in favor.

Mr. Sauvageau made a motion to recommend to the Spencer Town Meeting the adoption of the proposed zoning amendments dealing with small and large home based contractors as published on February 25, 2011 and as amended tonight. Mr. Ceppi seconded the motion and the vote was 3-0 in favor.

**B. Public Hearing – Zoning Bylaw Amendment: Floodplain District.** Ms. Shiver opened the hearing at 7:55 p.m. Ms. Buck read a summary to the Board. The Federal Emergency Management Agency (FEMA) recently completed updates to the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) for the Town Of Spencer. The new FIRM and FIS will become effective on July 4, 2011. In order for the Town to remain eligible to remain in the National Flood Insurance Program (NFIP), the Town is required to amend the Zoning bylaw prior to July 4, 2011 to meet NFIP requirements and to reference the new FIRM and FIS.

Ms. Buck explained the proposed amendments were prepared by the Massachusetts Flood Hazard Mapping Coordinator to comply with FEMA's requirements. The following changes are proposed:

- Update references to FIRM and FIS to reflect new dates
- Remove addresses of state agencies
- Remove reference to coastal wetland regulations (not applicable in Spencer)
- Update to reflect changes in flood district names and NFIP requirements

At the previous meeting, the Board directed Ms. Buck to contact the MA Division of Conservation & Recreation (DCR) in regards to removal of the dated referencing (on the map plan), and the clarification on the encroachment (that is prohibited in the regulatory floodway).

Ms. Buck informed the Board that staff from DCR answered no to the removal of the date referencing, and that she has not yet to receive any response back on the encroachment.

Note: There were two individuals present in this hearing.

Ms. Shiver opened the hearing to the public for any questions and comments at this time.

Note: No one in the audience asked any questions or made any comments.

Mr. Sauvageau made a motion to close the hearing at 8:00 p.m. Mr. Ceppi seconded the motion and the vote was 3-0 in favor.

Mr. Ceppi made a motion to recommend the Spencer Town Meeting the adoption of the proposed zoning amendments dealing with Floodplain Districts as published on February 25, 2011. Mr. Sauvageau seconded the motion and the vote was 3-0 in favor.

### **Approval of Minutes: Minutes for February 15, 2011**

Mr. Sauvageau made a motion to accept the minutes for February 15, 2011. Mr. Ceppi seconded the motion and the vote was 3-0 in favor.

**Old Business: None**

## **Other Business: Town Planner Report**

**A. Candlewood and Sunset/Holmes surety – update.** Ms. Buck informed the Board that letters were sent to both developers at the beginning of last week which required them to submit the new amount of the performance guarantee to ODIS. As of today, she hasn't heard back from them yet. The Board advised to wait for a couple more weeks, and in the meantime consult with the TA for the next step in the matter.

The Board and Ms. Buck agreed that there should be a better way/solution to avoid this situation from happening in the future subdivision projects. The following suggestions were included in the discussion:

- Change or write the regulation in a way that discouraging the Letter of Credit as performance guarantee (because of expiration dates).
- The length of the Letter of Credit should coincide with the length of the approved Plan (Definitive Subdivision Plan, OSRD Plan).
- Shall incorporate the escalation factor for inflation to the funds as part of the performance guarantee.

**B. Inclusionary Zoning.** Ms. Buck has completed a summary list of what the Board wished to be included in the inclusionary bylaw and issues needing further research. She will continue researching the materials and report back to the Board.

With no further discussion, Mr. Sauvageau made a motion to close the meeting at 8:05 p.m. Mr. Ceppi seconded the motion and the vote was 3-0 in favor.

Submitted By:

Approved By:

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Bea Meechan, Senior Clerk

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Shirley Shiver, Planning Board Member

### **List of Documents used on March 15, 2010**

- Draft of Zoning Amendments.
- A letter from Ginny Scarlet to Attorney Berthaiume in regards to Estate of Esther Gale.
- A summary on Zoning Amendments prepared by Ms. Buck for the public hearing.